

PATENTS
96254-06170

AMENDMENT AND RESPONSE TO FINAL REJECTION

REMARKS

This action is timely filed within the five month period for response which period expires on August 16, 2010, because August 15, 2010 falls on a Sunday. This Response is accompanied by a Request for Continued Examination and its required fee. Also accompanied is a three-month extension of time for filing the Request for Continued Examination in lieu of filing an Appeal Brief. Reconsideration is respectfully requested.

Claim Rejection 35 USC 103

The Examiner has rejected claim 1-14, 52-65 and 69 under 35 USC 103(a) as being unpatentable over U.S. Patent No. 6,564,121 (Wallace) in view of U.S. Patent No. 7,233,912 (Walker). Applicant respectfully traverses this rejection.

The Examiner has acknowledged that Wallace does not explicitly indicate an embodiment where the security asset manager, an asset control system, and the web server are co-located together within the same housing. To establish a prima facie case of obviousness under 35 USC 103 all of the elements must be found in the combined teaching of the relevant art. Wallace does not teach all of the elements of claim 1 which includes a system where "the co-located asset control system and web server share a single I/O unit coupled to the Internet." Wallace does not teach all of the elements of claim 52 which includes a method that requires "using a single I/O unit coupled to the Internet and shared by the co-located web server and asset control system." Accordingly, this element must be found in the relevant art (versus non analogous art). If Walker is non-analogous and there is no motivation to combine the references, then the prima facie case must fail.

Applicants believe that a prima facie case of obviousness has not been met because the citation of Walker is improper as non analogous art and no motivation is provided to combine Wallace with Walker. Furthermore, Wallace teaches away from the system of the claimed invention and discloses a system that is technically incompatible with the teaching of Walker.

PATENTS
96254-06170

AMENDMENT AND RESPONSE TO FINAL REJECTION

Non-Analogous Art

The art of vending machines is not analogous art to the present field of the invention which generally relates to electronic devices that monitor the placement or removal of articles in or coupled to the device and more particularly to one or more asset control systems incorporating a Web server that provides remote devices with real-time access to asset monitoring information. Vending machines are devices intended to securely hold and dispense an article when adequate payment is made. The present system provides a security asset management system at a remote location. Secured items are kept locked and cannot be accessed unless certain security criteria is met so that highly secure items can be tracked and used discriminately. The purpose of these devices is to control access and keep a detailed record of withdrawals and deposits. There is no sale of the items. There is no need to verify amount or return change. There is no need to view who is purchasing items.

Even if some vending machines have some similar features, vending machine art may not be considered to be within the review of a person of ordinary skill in the art of asset management systems. It is improper to cite Walker without a motivation in Wallace to combine the teachings of vending machine art with Wallace. The Office has the burden of proof to establish motivation as part of the requirement to cite Walker. Otherwise, the prima facie case of obviousness cannot be established and the USPTO is obligated to allow the claims.

Teaching Away

Wallace actually teaches away from a system of the claimed invention having an embodiment where the security asset manager, an asset control system, and the web server are co-located together within the same housing. Thus, even if Walker was considered to be within the knowledge of a person of ordinary skill in the art, the teaching of Wallace would not lead a person of ordinary skill in the art to co-locate the security asset manager, the asset control system, and the web server in the same housing.

In Column 3, lines 28-30, Walker explains that processing module 144 communicates via a

PATENTS
96254-06170

AMENDMENT AND RESPONSE TO FINAL REJECTION

network communication port with a central server that is not shown in the Walker drawing and is not co-located with an asset control system.

In column 3, lines 55-60 Walker explains the retrieval of information via the internet or directly from a server that is not co-located with an asset control system because it communicates via a network.

In column 3, lines 60-68, Walker suggests a programmed computer receiving input and exchanging information "with a remotely located server."

In column 3, lines 28-31, Walker explains that vending machine 100 may be in communication with a remote computer, such as a server, which clearly does not envision co-location of a web server with an asset control system.

These indications from Walker show not only there is a lack of motivation to consider the art of vending machines for the present invention, but that the specific system and method taught in Wallace is technically incompatible with the teachings of Walker. As a result, claims 1 and 52 would not be rendered obvious by Wallace in view of Walker.

Dependent Claims

Claims 2-14 depend from claim 1 and include all of the elements of claim 1 and are therefore patentable for the reason that claim 1 is patentable. Claims 53-65 and 69 are dependent upon claim 52 and are patentable for all of the reasons set forth in claim 52.

PATENTS
96254-06170
AMENDMENT AND RESPONSE TO FINAL REJECTION

Accordingly, Applicants believe that the present case is in condition for allowand and respectfully requests allowance of the same.

Respectfully submitted,

Date Aug 16, 2010

P.T. Lavoie
Paul T. Lavoie
Registration No. 38,681

JAECKLE, FLEISCHMANN & MUGEL, LLP
12 Fountain Plaza,
Buffalo, NY 14202-2922
Tel.: 716-843-3804
Fax: 716-856-0600
plavoie@jaeckle.com